IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

	NATERA, INC.,	
	Plaintiff,	C.A. No. 1:23-CV-629-CCE-JLW
	v.	
INC.,	NEOGENOMICS LABORATORIES,	
	Defendant.	

DECLARATION OF TIM FORSHEW, PH.D. IN SUPPORT OF NEOGENOMICS LABORATORIES, INC.'S OPPOSITION TO NATERA, INC.'S MOTION TO EXCLUDE NEOGENOMICS LABORATORIES, INC.'S SUPPLEMENTAL INTERROGATORY RESPONSES AND TO PRECLUDE REFERENCE TO CERTAIN INFORMATION

I, Tim Forshew, declare as follows:

I. Background and Experience

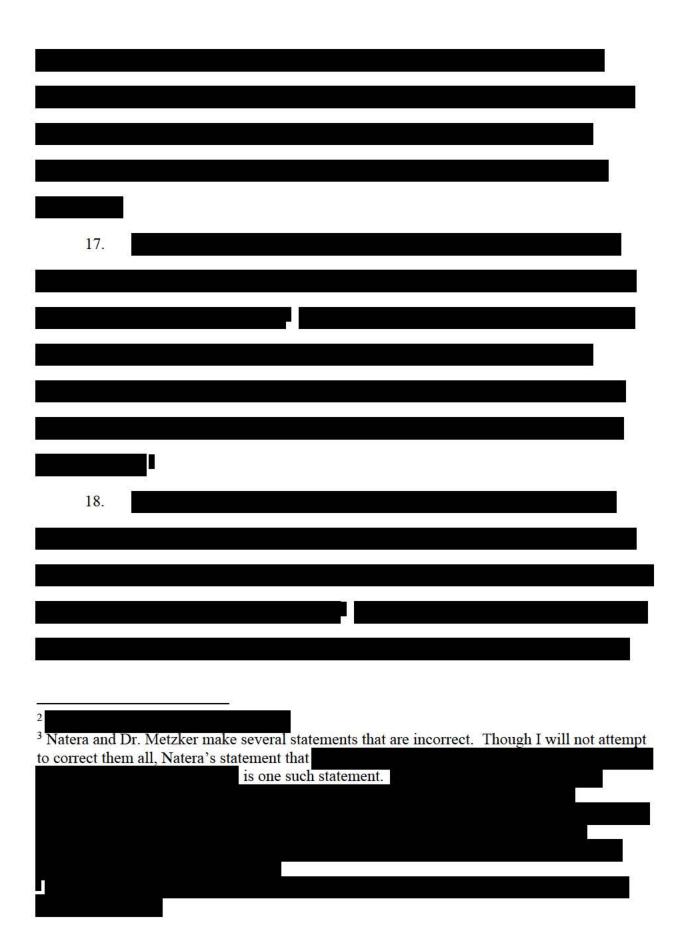
- 1. I am a co-founder of Inivata Limited and serve as the Head of Science and Innovation at NeoGenomics Laboratories, Inc. During my time at NeoGenomics, I have worked on research and development of technologies for minimum residual disease ("MRD") in cancer patients including NeoGenomics' RaDaR product as well as other liquid biopsy technologies.
- 2. I received a Ph.D in Genetics in 2004 from the University of Birmingham where I studied the mapping of genes responsible for rare recessive eye disorders under the supervision of Professor Eamonn Maher.
- 3. From 2006 to 2010, I was a postdoctoral research fellow at Barts and The London School of Medicine and Dentistry where my primary focus of research was to investigate the genetics and epigenetics of childhood brain tumours.
- 4. From 2010-2014, I worked at the Cancer Research UK Cambridge Institute at the University of Cambridge as a postdoctoral research fellow and then a senior research associate. During this time, I worked in the Rosenfeld laboratory where the primary goal of our group was to develop diagnostic strategies by combining molecular technologies with computational and genomic approaches. In particular, my work entailed exploring the diagnostic potential of cell free tumour DNA. The main focus of my research was the development of next generation sequencing methods for rare mutation detection.
- 5. In September 2014, I co-founded Inivata Limited, which has since been acquired by NeoGenomics Laboratories, Inc. I served as a Technical Advisor from September 2014 to May 2015, the Head of Technology Development from June 2015 to August 2017, and have served as the Head of Science and Innovation since August 2017.

- 6. In addition to my work at Inivata, from 2014 to 2016, I was a group leader at University College London where I established a new translational cancer genetics group. Our team worked on genetic approaches in an attempt to both improve our understanding of cancer and how best to treat patients. I have served as an honorary lecturer at University College London from time to time on the topic of genetics and next generation sequencing technologies.
- 7. I was deposed in this case on July 19, 2024. I understand I was designated as the corporate witness regarding several topics, including Topic 51 and 52 regarding the design, development, and costs of
 - II. Assay Development
 - 8. Development of a new assay at NeoGenomics entails the following stages:

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10.		
		I

¹ A Laboratory Information Management System (LIMS) is a software platform that digitally records and tracks metadata, results, workflows, and instruments associated with lab samples.

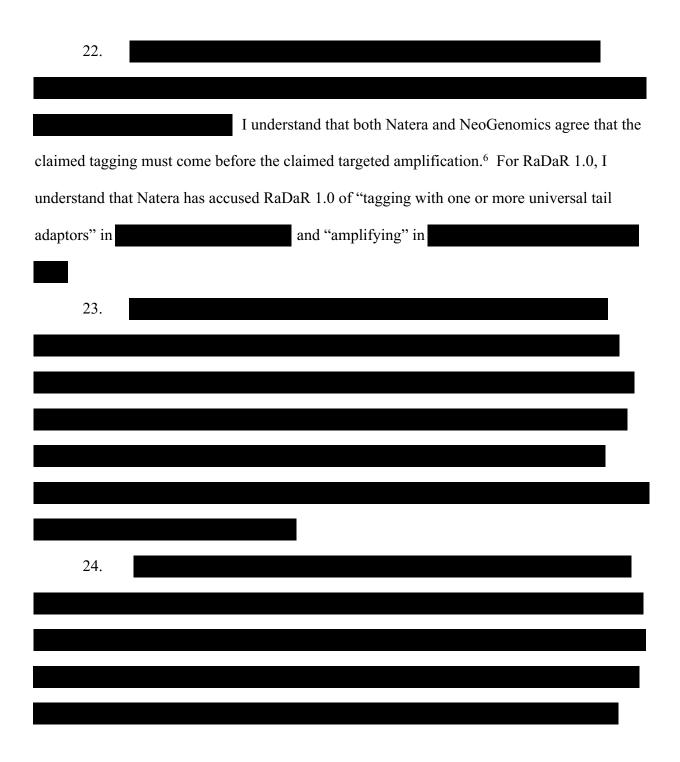
11.	
12.	
12.	
13.	
III.	Timelines of
14.	Immediately after the preliminary injunction was issued against RaDaR 1.0 on
December 27,	2023, I and others at NeoGenomics began brainstorming potential modifications
to the RaDaR	product that did not perform
15.	By the beginning of February 2024, we proposed a design for
February to M	Tarch 2024,
Starting in Ma	arch 2024, we began the feasibility stage of assay development.
16.	



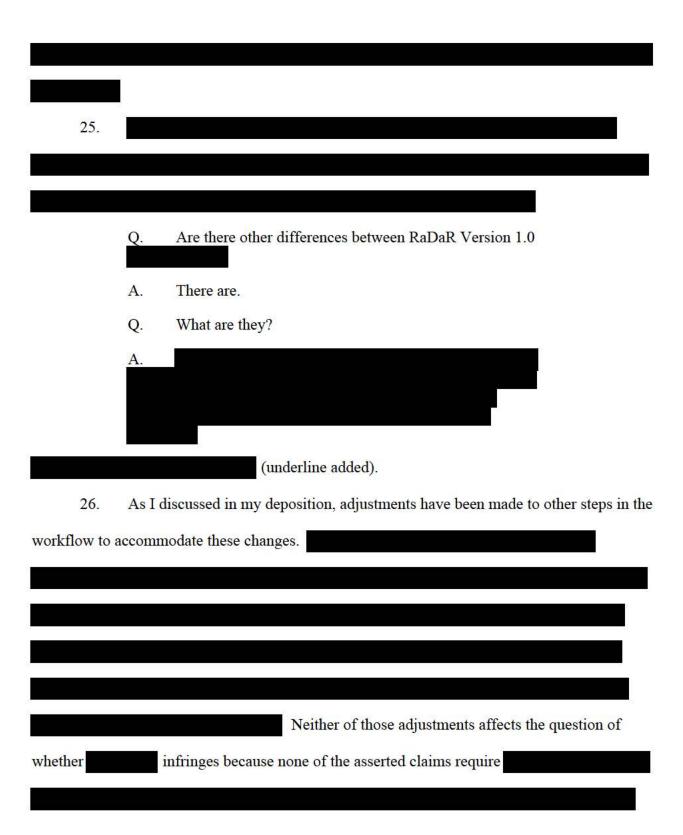
19. 20. IV. Differences between		
20. IV. Differences between		
20. IV. Differences between		
20. IV. Differences between	19.	
IV. Differences between		
IV. Differences between		
IV. Differences between		
<u></u>	20.	
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	IV.	Differences between
21. As I discussed in my deposition, the primary differences between	21.	As I discussed in my deposition, the primary differences between

Both of these changes consist of performing well-known laboratory techniques that have existed for decades. Ligation has been around since the 1960s, and scientists have been able to perform PCR since PCR began in the 1980s.

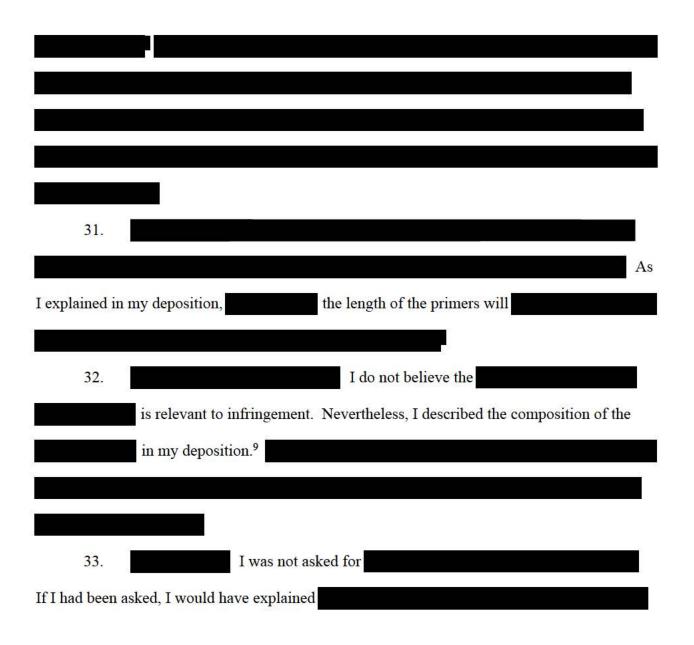
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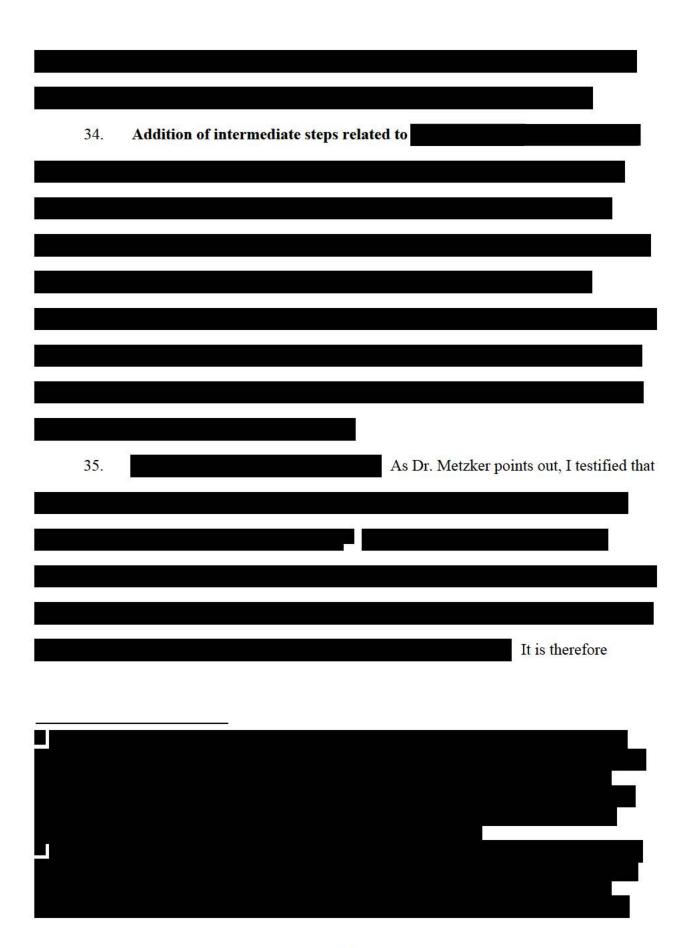
⁶ Dkt. 264-2, Natera Appeal Resp. Br. at 37 ("Claim 1 requires that DNA be 'tagg[ed] in one step and then [amplified] in one or more subsequent steps.") (citing '035 patent at 249:46-57); *see* Dkt. 280 at 4 ("The parties agree that 'amplifying the tagged products' is a separate step from 'tagging isolated cell-free DNA with one or more universal tail adapters to generate tagged products.").



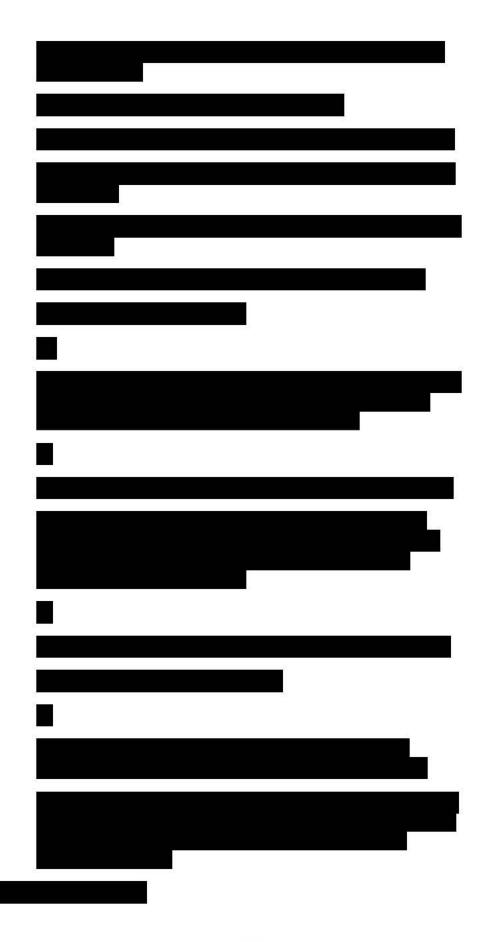
V.	The Design of is Fixed
27.	
28.	In his declaration, Dr. Metzker provides a list of aspects of
to be "mate	erial changes" that are "not yet defined" and therefore impact his ability to assess
infringeme	nt of the asserted patents. I disagree and address each of those points below:
29.	The types of that will be used. Dr. Metzker points to a
question in	my deposition of
	Metzker
Decl. at ¶ 1	5. I disagree that the vendor that supplies is relevant to the
infringeme	
mmingeme	nt inquiry.
30.	The precise method of Dr. Metzker points to my deposition
testimony t	that Metzker Decl. at 14. By
"format," I	was referring to the physical quantities ordered, for example the volumes of the
tubes. I do	not believe the form in which is ordered is relevant to infringement.







irrelevant to whether infringes the asserted claims,
36. I understand Natera has asserted that NeoGenomics' documents and witnesses did
not identify the I was not asked for the
If I had been asked, I would have explained
37.
Both of
those statements are inaccurate. I was not asked in my deposition
If I had been asked
I would have explained that
38. I also understand my colleague Dr. Giovanni Marsico was directly asked and
testified regarding
testified regarding



VI. Documents Provided Regarding

39. I understand Natera has accused NeoGenomics of waiting to disclose evidence



I declare under penalty of perjury that the foregoing is true and correct.

Executed on 08Aug2024

Tim Forshew

Tim Forshew, Ph. D.